

NOTE:

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1 Group, General ANAMI Korechika amended this plan"

2 I omit a few lines containing technical de-
3 tails of the said modifications which in essence were
4 concerned mainly with changing the places of crossing
5 the Amur river by the forces of the front and the
6 change of the direction of the main below of the 4th
7 and N army which by that time was named the 8th army.

8 I further quote from the middle of the first
9 paragraph on page 16.

10 "Those plans of operations of the Second
11 Army Group was in force from 1941 to the spring of
12 1944, that is the time when I was the commander of the
13 Fourth Army, this plan was in force."

14 Lieutenant-General KISABA gave very essential
15 testimony of the "Kan-Toku-En" plan, which I quote from
16 page 10, the fourth paragraph.

17 "Question: Tell me what you know about the 'Kan-
18 Toku-En' plan.

19 "Answer: It provided for the increase of our
20 military strength in Manchuria in connection with the
21 outbreak of the Russo-German War in 1941, and by this
22 plan some three hundred thousand forie were transferred
23 to Manchuria. The 'Kan-Toku-En' plan was only the name
24 to comouflage our plan of operations against the U.S.S.R"
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"7. In our drive against Nanking the movement
1 of the army was strictly controlled and no arbitrary
2 action was allowed even to capitalize on opportune
3 operationed chances. But more detailed instructions
4 were given about December 8 higher authorities regard-
5 ing the attack upon Nanking. According to the schedule
6 our unit was to begin the attack on Yuhuatai about
7 December 10, turn to Kwanhwamon on the afternoon of
8 the 12th and proceed into the attack from about the
9 13th. But upon receiving the news of the fall of Nan-
10 king, we only engaged in a clean-up campaign near the
11 gate and then turned back to Tangsuchen on the same
12 night. We entered Nanking on the 15th, deployed and
13 were billeted in houses in the southeast part of Nan-
14 king. Almost all the houses in the city were left
15 undestroyed. There were some small fires around the
16 billeting area, but none were started by my unit. As
17 the higher authorities had warned us against fire
18 incessantly before and after our entry into Nanking,
19 my officers and men were especially careful. Upon entry
20 into Nanking, I prohibited my men to go out into the
21 city except on official errands and I instructed them
22 to respect and protect foreign properties and their
23 rights and not to inflict any harm on the Chinese folks
24 but to endear them when they went on those official
25

1 Did you favor it or were you opposed to it?

2 A My own personal feeling was opposed to the
3 Tripartite alliance. But no matter what the subject
4 may be, in human affairs we find that there are
5 trends, and in foreign affairs there is also a cer-
6 tain continuity. Once a matter decided on before
7 has become a fait accompli it is very difficult to
8 try to change that established fact. This is one of
9 the things that makes politics so difficult. For
10 instance, after I became Foreign Minister the situa-
11 tion was such that it was impossible for me to call
12 for the immediate abrogation of the Tripartite Pact.

13 Q Did you think that the Tripartite Pact was
14 a good thing or an evil thing for Japan when you
15 joined the TOJO Cabinet in 1941?

16 A I felt that the Tripartite Pact made Japan's
17 international position very difficult.

18 Q Well, that does not enlighten us too much.
19 Will you please answer the question? Did you think
20 it was an evil thing on the whole or a good thing for
21 Japan? Did you favor it or were you against it
22 when you joined the TOJO Cabinet in October, 1941?
23 You use many words about it, but I don't think you
24 give us very much information. Will you please tell
25 us?

1 A In regard to political affairs, there are
2 so many things regarding which one can neither say
3 they are good or bad in one word. Take, for example,
4 the Tripartite Pact. If the effect of that pact
5 was for peace, if it did have some force for peace,
6 one couldn't say it was evil.

7 Q Mr. TOGO, do you draw a distinction between
8 various kinds of peaces? For example, can there be
9 a peace brought by a conqueror with slavery attached
10 to it thereafter, or can there be a just peace where
11 liberty and justice prevail? That is, as a diplomat
12 you have heard the expression "pax Japanica," "pax
13 Britanica," and perhaps "pax Americana"?

14 A I have.

15 Q Now, when you speak of the Tripartite Pact
16 as being an instrument of peace, do you mean by
17 that that by reason of the threat of a military
18 alliance the United States of America would be in-
19 fluenced to keep out of the war by the threat of Japan?

20 A In reply to the question you put to me a few
21 minutes ago I replied that if the Tripartite Pact were
22 to contribute to peace -- in other words, if its
23 effect were to be for peace -- one couldn't call it
24 evil. But I didn't say that the essence of the Tri-
25 partite Pact was either good or bad.

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24 evil. But I didn't say that the essence of the Tri-
25 partite Pact was either good or bad.

1 that it is not necessary because of the large bulk
2 to bring all of these documents in, but of both
3 series of originals, the first volume and the second
4 volume and one or two sample volumes in between, that
5 we can use for comparison and have a fair opportunity
6 to know where we stand. I cannot properly cross-
7 examine this witness, as I requested the other day,
8 until I have documents like that upon which I can
9 base proper questions.

10 THE PRESIDENT: Mr. CARR.

11 MR. BROOKS: I would like to ask for three,
12 if your Honor please, of each; the first, last and one
13 somewhere in the middle. For instance--

14 THE PRESIDENT: This is one of the most
15 important documents ever presented to a court, and
16 if there is any question about it, and there are
17 serious questions, it should be fully investigated.

18 MR. BROOKS: My Japanese counsel assures me
19 that it is vitally important and they can read Japanese.
20 I am just going on their word, your Honor. That is why
21 I am fighting up here now.

22 THE PRESIDENT: I take it your application
23 is due wholly to the fact that a witness has been
24 called, and even if you had the documents before, you
25 would need them now to cross-examine her effectively.

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24 called, and even if you had the documents before, you
25 would need them now to cross-examine her effectively.

1 MR. BROOKS: That's right, your Honor.

2 THE PRESIDENT: You asked for these documents
3 yesterday, Captain Brooks --

4 MR. BROOKS: Yes, sir.

5 THE PRESIDENT: --when your right to cross-
6 examine still existed. Rightly or wrongly, I announced
7 the decision of the Court that you should not have them
8 for the time being.

9 Mr. Comyns Carr.

10 MR. COMYNS CARR: If your Honor pleases, I
11 think this is the fourth time that my friend has
12 asked for the production of original diaries and on
13 each of the previous occasions he has been overruled
14 on the ground that to look at the original of that
15 which has been photostated couldn't help anybody
16 because the photostat exactly reproduces the original.
17 In my submission that reasoning still holds good. If
18 my friend is now asking for the production of some
19 other document other than the original from which
20 these photostats were taken, I have no information as
21 to what exactly he wants nor whether it is obtainable.
22 The photostats are taken from the original document
23 as handed to SCAP, and the translations are made from
24 the photostats. The prosecution will, of course,
25 endeavor to do anything which the Court directs but

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1 THE PRESIDENT: We have not read it. It
2 may or may not be true.

3 MR. HARDIN: We omit the next one.

4 We offer in evidence IPS document 219P (82)
5 from exhibit 58. This is an excerpt from an oral
6 statement of Ambassador Grew to Prime Minister KONOYE,
7 dated October 3, 1938.

8 THE PRESIDENT: Mr. Hardin, the position is
9 this: The document last admitted is certainly
10 identical with a part of an earlier exhibit which has
11 not been read. It is, I understand, a different
12 translation.

13 MR. HARDIN: That is 219P (54), your Honor?

14 THE PRESIDENT: 972-E contains a paragraph
15 which is similar in substance to exhibit 973.

16 MR. HARDIN: 973, I believe, was omitted,
17 your Honor.

18 THE PRESIDENT: It is still before us. That
19 is all I know. I suppose you can omit this 973 with-
20 out damaging your case.

21 MR. HARDIN: I was only omitting it because,
22 as I understand it, it is a duplication.

23 THE PRESIDENT: The last excerpt tendered
24 is admitted on the usual terms.

25 CLERK OF THE COURT: Prosecution's document

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1 Q Well, if I follow you, then, your answer is
2 "Yes," you didn't consider this of much importance.

3 A You couldn't take any one point at a time;
4 you had to consider the whole situation as a whole.

5 Q My question was why you omitted the Japanese
6 proposal in question from your discussion of the
7 negotiations in your affidavit. I did not suppose
8 there was any reason for your omitting it except that
9 you considered it of little importance. I wonder if
10 that is correct.

11 A We were at that time exploring the whole
12 field.

13 Q Yes, but why was this document not mentioned
14 in your affidavit, Mr. Witness?

15 A That was one of many documents that were
16 not mentioned in my affidavit, because it was one,
17 in my judgment, of lesser importance.

18 Q Yes, so I assumed. Now, in connection with
19 the Tripartite Pact, I want to call your attention
20 to the occasion when this document was presented by
21 Ambassador NOHURA to President Roosevelt on the 10th
22 of November. Do you remember that at that time in
23 discussing with the President the matter of the
24 Tripartite Pact the Ambassador said as follows:
25 This is in Foreign Relations, Volume 2, page 716.

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1 "The present circumstances under which Japan is
2 placed do not permit my Government to go any further
3 to write in black and white than what is proposed in
4 the draft of September 25th, which I have just quoted.
5 All I have to ask you is to read between the lines
6 and to accept the formula as satisfactory."

7 A Isn't there a line there that the Ambassador
8 erased?

9 Q Yes. That is what I want to ask you about.
10 The last sentence in the publication is lined out and
11 is followed by the notation, "deleted by Ambassador
12 NOMURA." Was any explanation given of why he de-
13 sired it deleted?

14 A I wasn't at that conversation, and if any
15 explanation was made to me I don't recall it.

16 Q Now, continuing on the matter of the Tri-
17 partite Pact for just a moment, was there any feeling
18 in the Department of State by say November that the
19 parties were measurably near to agreement on the
20 Tripartite question alone?

21 A I don't recall that there was any such
22 feeling. As I say, we were trying to look at this
23 question as a whole and getting a little closer,
24 slightly closer on one point without getting any
25 nearer on other points. I don't think that they

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1 made no objection to the offering of the document for
2 identification and the subsequent cross-examination
3 of the witness on the basis of that document, but
4 the defense goes further than that and offers the
5 document itself in evidence.

6 THE PRESIDENT: We have the view in any
7 Australian or New Zealand court, I will confine it
8 to that --

9 MR. BLAKENEY: Or American.

10 THE PRESIDENT: The document is admitted
11 on the usual terms.

12 CLERK OF THE COURT: Defense document here-
13 tofore described is given exhibit No. 1246 and ad-
14 mitted according to order of Court.

15 (Whereupon, the document previously
16 marked defense exhibit No. 1246 for identifi-
17 cation was received in evidence.)

18 MR. BLAKENEY: I do not desire to read it
19 at this time unless the Tribunal desires to hear it.

20 THE PRESIDENT: Well, it should go into the
21 transcript for our convenience. This is the time.

22 MR. BLAKENEY: I am sorry, sir, I do not
23 understand whether you mean to read it into the
24 transcript.

25 THE PRESIDENT: Read it, yes.

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1 THE WITNESS: Yes.

2 Q Was the question of the number of troops
3 to be stationed in northern Indo-China even mentioned
4 by the Department of State to the Japanese Ambassa-
5 dors at the time of this proposal?

6 A I recall definitely that the point that
7 the troops could be brought back into southern Indo-
8 China in a day or two was mentioned, but I don't re-
9 call the fact whether there was no limit placed on
10 the number of troops stationed in northern Indo-China
11 was brought to their attention. The record will show
12 that, whether it was so or not.

13 Q Now, turning to the question of the sup-
14 posed insincerity of the Japanese proposal, as I
15 understand, the Department of State felt that the
16 Japanese offer was not made in good faith and that,
17 therefore, any agreement which might be made would
18 have no value; is that correct?

19 A To which offer are you now referring?

20 Q We are speaking of the 20th of November
21 proposal.

22 A Well, I had made no statement in regard to
23 that. I spoke about the November 7th.

24 Q I am sorry. I did not mean to misquote you.
25 Let me ask from what time did the Department

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1 of State feel that the Japanese were insincere on
2 their side of the conversations, from what time?

3 A It depends upon to what you are referring.
4 We certainly felt they were insincere in regard to
5 the question of withdrawal of troops as from November
6 7th. I don't recall that the question ever arose
7 specifically in regard to this November 20th proposal.

8 Q Well, as I understand, the thing which had oc-
9 curred to vitiate your belief in the Japanese sincerity
10 was knowledge of the intercepted message of the 4th
11 of November, that is, message 726, which we have
12 mentioned before; is that correct?

13 A Yes.

14 Q Then may we assume that from that time
15 forward the Department of State had no confidence
16 in the Japanese sincerity?

17 A Naturally, we were on our guard from that
18 point on.

19 Q Would I then be correct if I said that from
20 that time on as far as the Department of State was
21 concerned you were not really negotiating because you
22 had no confidence that any agreement obtained would
23 be of any value?

24 A I don't think that is correct. We were on
25 our guard. We naturally wanted to have things,

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was it not, to the Southwest Pacific area?

1 A Well, I haven't got the May '31 draft be-
2 fore me. I don't recall definitely what our wording
3 was in our paper.

4 Q In any event, in the American draft of the
5 21st of June were not these guarantees for the first
6 time expressed as to be extended to the Pacific area
7 instead of the Southwest Pacific area? I refer to
8 exhibit 1092 in evidence.

9 A Yes, there the provision is for -- covers
10 the Pacific area.

11 Q Finally, after this question had remained un-
12 settled for some time, did not the Japanese Government
13 • by this proposal of the 10th of November make the
14 following statement: "That the Japanese Government
15 recognizes the principle of non-discrimination in inter-
16 national commercial relations to be applied to all of
17 the Pacific areas, inclusive of China, on the understand-
18 ing that the principle in question is to be applied
19 uniformly to the rest of the entire world as well."
20 This is quoted from exhibit 1246 in evidence.

21 A That is correct.

22 Q On the same day, in conversation with Presi-
23 dent Roosevelt, did not Ambassador NOMURA point out to
24 the President that -- I quote -- "The Secretary of State
25 has repeatedly pointed out to me that it has been his

1 had it not?

2 A That is correct.

3 Q So far as concerns the desirability of such
4 a meeting between the President and the Premier,
5 Ambassador Grew in Tokyo expressed to the Department,
6 did he not, a great enthusiasm for and hopefulness
7 concerning such a meeting?

8 A That is so; but he was only reporting from
9 the viewpoint of Tokyo as he himself stated.

10 Q And from the viewpoint of Tokyo did he not
11 feel that, in his own words: "The good which might
12 flow from such a meeting is incalculable"?

13 A There is no question about what Mr. Grew
14 reported in his telegram. It has been published.
15 It is in the record.

16 Q I should like to ask you also whether the
17 Department took into consideration this further sug-
18 gestion of Ambassador Grew contained in his long
19 telegram to the Department of the 29th of September
20 reviewing the whole situation, wherein, speaking of
21 the proposed meeting, he says this: "He raises the
22 questions whether the United States is not now given
23 the opportunity to halt Japan's program without war
24 or an immediate risk of war; and, further, whether
25 through failure to use the present opportunity, the

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1 United States will not face a greatly increased risk
2 of war. The Ambassador states his firm belief in an
3 affirmative answer to these two questions"?

4 A We gave careful consideration to that as well
5 as all other suggestions of Ambassador Grew.

6 Q Did the Department consider further at that
7 time the likelihood also referred to by Ambassador
8 Grew that Prince KONOYE would be in a position to
9 give to the President more directly explicit and
10 satisfactory engagements than his Ambassador could do?

11 A We did not see how -- what explicit commit-
12 ments that would be of a satisfactory character could
13 be given in the light of the failure to reach an
14 agreement on so many fundamental points during all
15 those months of conversation.

16 Q In any event, the meeting did not occur
17 because of the facts which you have stated in your
18 affidavit?

19 A And also for the many considerations stated
20 in our communication of October 2nd and in further
21 explanations made in the published record.

22 Q Then with the closing of the question of a
23 meeting between the President and Premier, the con-
24 versations were thrown back to the same state approxi-
25 mately in which they started, were they not?

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✓ Language Corrections.

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THE PRESIDENT: Mr. Brannon.

MR. BRANNON: We wish to remind the Tribunal that this is not the order that was issued but the recollection of several Japanese Naval Officers.

THE PRESIDENT: This must be the order. It would require photographic memories to recollect that, but it may be as Mr. Brannon says. You can clear that up, Mr. Fihelly. Perhaps Admiral Richardson will clear it up when he comes, Mr. Fihelly, so proceed.

MR. FIELLY: This Appendix B, your Honor, is a reply to what is known as the Colonel Munson Questionnaire, some thirty or more questions that was sent to the Japanese Naval Department to answer the specific question.

MR. BRANNON: I refer to paragraph 29, on page 75, the last sentence. "The information is based on recollection and inquiries of the following three men."

THE PRESIDENT: You could go further, Mr. Brannon.

(Reading from exhibit 809): "All copies of the above items were burned at the time of surrender and as a result no documents are available. The essential points in the order relative to carrying out

1 the operations are hereby submitted." You appear to
2 be right, Mr. Brannon.

3 MR. BRANNON: I wanted to state that I may
4 be altogether in error. The prosecution appears
5 to be ready to introduce another operational order
6 that was recovered from a sunken Japanese ship, which
7 may render much of this report obsolete; therefore,
8 I have been questioning why the prosecution was
9 placing so much reliance on this memory report, when
10 they appear to have a document that actually was a
11 copy of an official Japanese order of the same nature.

12 THE PRESIDENT: If by "the same nature" you
13 mean to the same effect, it will be in the interest
14 of the prosecution to use it and will be against you.

15 MR. BRANNON: I mean pertaining to the same
16 subject matter.

17 MR. FIDELLY: IPS document 17, to which the
18 counsel refers only refers to General Secret Op-
19 erational Order No. 1 and 2. That document will
20 be introduced during the testimony of Admiral
21 Richardson. I did in general state to the Court
22 this morning that it would show, not in contra-
23 distinction or in opposition to what is here stated,
24 but in direct coincidental date with date on
25 November 5th that the Operational Order No. 1 was

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